

COUNCIL OF THE COUNTY OF MAUI

# GOVERNMENT RELATIONS, ETHICS, AND TRANSPARENCY COMMITTEE

June 21, 2022

**Committee  
Report No. \_\_\_\_\_**

Honorable Chair and Members  
of the County Council  
County of Maui  
Wailuku, Maui, Hawaii

Chair and Members:

Your Government Relations, Ethics, and Transparency Committee, having met on May 31, 2022, makes reference to the following:

1. County Communication 21-46, from Council Chair Alice L. Lee, relating to litigation matters.
2. Resolution 22-102 from the Department of the Corporation Counsel, entitled “AUTHORIZING SETTLEMENT OF ROBERT TURNER V. WAI-AHIWI GULCH LAND COMPANY LLC, ET AL., CIVIL 18-1-0244(1).”

Resolution 22-102’s purpose is to authorize the Department to settle the claim filed on June 4, 2018, for \$190,000 under terms stated in the resolution.

By correspondence dated April 25, 2022, the County Clerk transmitted a letter dated April 13, 2022, from the Department of the Corporation Counsel, requesting consideration of Resolution 22-102, a copy of the claim, and documentation relating to the claim.

Your Committee notes Section 3.16.020(B), Maui County Code, requires Council authorization for any settlement of claims or civil litigation in excess of \$7,500.

A Deputy Corporation Counsel provided a brief overview of the claim in regular session. The claim alleges personal injury from an incident involving a fallen eucalyptus tree that landed on the claimant’s motor vehicle traveling on Pi’iholo Road, Makawao, Maui, Hawai’i, on

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April 30, 2017. The claim further alleges that the County of Maui owned and maintained Pi‘iholo Road and was negligent in: (1) creating a drainage ditch on Waiahiwi Gulch Land Company LLC’s property to evacuate water off of Pi‘iholo Road; and (2) cutting down trees near the subject tree, which compromised the stability of the subject tree, causing it to fall.

The Deputy Corporation Counsel requested an executive meeting to discuss confidential information related to the claim.

Your Committee voted to convene an executive meeting, closed to the public, to consult with legal counsel in accordance with Section 92-5(a)(4), Hawaii Revised Statutes.

Following the executive meeting, your Committee reconvened in regular session.

Based on the information received in executive session and the recommendation of the Department, your Committee voted 8-0 to recommend adoption of Resolution 22-102. Committee Chair Molina, Vice-Chair Rawlins-Fernandez, and members Kama, King, Lee, Paltin, Sinenci, and Sugimura voted “aye.” Committee member Johnson was excused.

Your Government Relations, Ethics, and Transparency Committee RECOMMENDS that Resolution 22-102, attached hereto, entitled “AUTHORIZING SETTLEMENT OF ROBERT TURNER V. WAI-AHIWI GULCH LAND COMPANY LLC, ET AL., CIVIL 18-1-0244(1),” be ADOPTED.

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This report is submitted in accordance with Rule 8 of the Rules of the Council.

  
\_\_\_\_\_  
MICHAEL J. MOLINA, Chair

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# Resolution

No. 22-102

AUTHORIZING SETTLEMENT OF  
ROBERT TURNER V. WAIHAHIWI GULCH LAND COMPANY LLC, ET AL.,  
CIVIL 18-1-0244(1)

WHEREAS, Plaintiff Robert Turner filed a complaint in Second Circuit Court, State of Hawaii, on June 4, 2018, Civil 18-1-0244(1), against Waiahiwi Gulch Land Company LLC (“WGLC”), alleging personal injury from an incident involving a fallen eucalyptus tree that landed on his motor vehicle traveling on Pi’iholo Road, Makawao, Maui, Hawaii, on April 30, 2017; and

WHEREAS, Defendant WGLC filed a Third-Party Complaint on May 5, 2020, that added claims against the County of Maui as a Third-Party Defendant; and

WHEREAS, WGLC alleges the County of Maui owned and maintained Pi’iholo Road and was negligent in: (1) creating a drainage ditch on WGLC’s property to evacuate water off of Pi’iholo Road; and (2) cutting down trees near the subject tree, which compromised the stability of the subject tree, causing it to fall; and

WHEREAS, Defendant WGLC alleges the County of Maui trespassed on WGLC’s property when creating and maintaining the drainage ditch on their property without permission; and

**Resolution No. 22-102**

WHEREAS, Defendant WGLC alleges it is entitled to contribution from the County of Maui for its proportionate share of responsibility if Defendant WGLC is found liable; and

WHEREAS, the County of Maui, to avoid incurring expenses and the uncertainty of a judicial determination of the parties' respective rights and liabilities, will attempt to reach a resolution of this case by way of a negotiated settlement or Offer of Judgment; and

WHEREAS, the Department of the Corporation Counsel has requested authority to settle this case for \$190,000; and

WHEREAS, having reviewed the facts and circumstances regarding this case and being advised of attempts to reach resolution of this case by way of a negotiated settlement or Offer of Judgment by the Department of the Corporation Counsel, the Council wishes to authorize the settlement; now; therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it approves settlement of Robert Turner v. Waiahiwi Gulch Land Company LLC, et al. in the amount of \$190,000;
2. That it authorizes the Mayor to execute a Release and Settlement Agreement on behalf of the County in this case, under terms and conditions as may be imposed by the Corporation Counsel consistent with the Council's settlement authority;

**Resolution No. 22-102**

3. That it authorizes the Director of Finance to satisfy settlement of this case, under terms and conditions as may be imposed by the Corporation Counsel consistent with the Council's settlement authority; and
4. That certified copies of this Resolution be transmitted to the Mayor, the Director of Finance, the Director of Public Works, and the Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY:



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GLEN R. PASCUAL  
Deputy Corporation Counsel  
County of Maui

LIT-6115

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "Sheri Lee". The signature is fluid and cursive, with the first name "Sheri" and the last name "Lee" clearly distinguishable.

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Upon the request of the Mayor.